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FISCAL IMPACT STATEMENT

LS 6925

BILL NUMBER: HB 1374

NOTE PREPARED: Jan 16, 2012

BILL AMENDED:

SUBJECT: Municipal food and beverage tax.

FIRST AUTHOR: Rep. McClain

FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill authorizes a municipal legislative body to impose by ordinance a municipal food and beverage tax. The bill provides that the tax may not exceed 1% of the gross retail income received from retail food and beverage transactions. The bill provides that the tax does not apply to a transaction that is exempt from the sales tax. The bill provides that the tax does not apply to a consolidated city, a municipality that has imposed a food and beverage tax under current law, or a municipality entitled to receive county food and beverage tax revenue.

Effective Date: July 1, 2012.

Explanation of State Expenditures: The Department of State Revenue would process municipal food and beverage taxes. The Department already processes the food and beverage taxes for 23 counties and municipalities that have already adopted the tax. Depending on the number of municipalities that may adopt under the provision, the Department could require additional personnel to process additional municipal food and beverage tax receipts. The Department would be required to notify municipal fiscal officers the amount of tax paid in the municipality quarterly of the immediately proceeding three month period of collections.

The bill's requirements represent an additional workload on the Department. If existing staffing and resource levels for food and beverage tax administration are being used to capacity, they may be insufficient for full implementation. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

Explanation of State Revenues:

Explanation of Local Expenditures: Legislative bodies of municipalities would be able to adopt an ordinance for a food and beverage tax within the course of a regular legislative session. Municipal fiscal officers in adopting municipalities would be required to establish a food and beverage tax revenue fund.

Uses: The following would be acceptable uses for the tax revenues.

- 1) Reducing municipal property tax levies in an ensuing budget year.
- 2) Property tax relief.
- 3) Replacement of revenue lost as a result of homestead credits paid under IC 6-1.1-20.6.
- 4) Payment of debt service and lease rentals
- 5) Paying costs of a capital project.
- 6) Operating revenue.
- 7) Paying municipal pension liabilities.
- 8) For any other purpose the legislative body determines is necessary, wise, and will be in the best interests of the residents of the municipality.

Explanation of Local Revenues: *Summary:* The food and beverage tax could be levied up to 1% of the amount of food or beverage items sold, depending on the specifications of the ordinance. However, the tax rate would have to be set in increments of 0.25%. Therefore, a municipality could only adopt a tax rate of 0.25%, 0.50%, 0.75%, or 1%. The amount of revenue this provision could generate would depend on the number of municipalities that chose to adopt the tax under this provision. *(See estimates below.)*

Exceptions: Municipalities that already have adopted a food and beverage tax under another statute would not be able to adopt a tax under this bill. Additionally, a municipality that is eligible to receive a distribution of a county food and beverage tax adopted by a county under a different statute would also not be able to adopt a food and beverage tax under this bill.

Estimates: There are currently 12 municipalities that have already adopted a food and beverage tax under a different state statute. Those municipalities' food and beverage taxes generated \$45.3 M in revenue during FY 2011. The bill would make approximately 114 cities and approximately 440 towns eligible to adopt a food and beverage tax. The U.S. Bureau of Census has reports of food and beverage sales for 64 of these cities and towns taken during the 2007 Economic Census. Most of these cities and towns, for which data are available, are the larger and more populous areas of the state. If all 64 of these towns were to adopt the tax at 1%, the total revenue in FY 2013 would be \$42.4 M (assuming a full year of collection). [Individual estimates for these 64 municipalities are available upon request.]

Background Information- Notes on Estimate Methodology- The estimates were generated using the FY 2011 revenue total from the 64 municipalities for which data is available, beginning in the base year of 2007. The estimated revenue was grown with real state sales tax growth rates from FY 2008 through FY 2011. The FY 2011 base amount was then grown by 3.5% per year over FY 2012 and FY 2013. The 3.5% was the rate adjusted annualized growth rate in state sales taxes from FY 1990 to FY 2011. All food and beverage tax estimates are adjusted upward by 10% to account for deli sales (sales of prepared foods on a "to go" basis in supermarkets and other food stores other than restaurants and bars.)

State Agencies Affected: Department of State Revenue, Treasurer of State.

Local Agencies Affected: Municipalities that have not adopted nor are eligible to receive food and beverage tax revenues under an existing state statute.

Information Sources: *Indiana Handbook of Taxes, Revenues, and Appropriations FY 2011 edition*; U.S. Bureau of Census, Economic Census 2007.

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